

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

**PHOENIX LICENSING, L.L.C. and LPL
LICENSING, L.L.C.;**

Plaintiffs,

v.

ALLSTATE CORPORATION, et al.;

Defendants.

Civil Action 2:2009-cv-00255-TJW

Jury Trial Demanded

**AGREED MOTION TO STRIKE REFERENCES TO
PLAINTIFFS' CONFIDENTIAL SETTLEMENT ANALYSIS**

Plaintiffs Phoenix Licensing, LLC and LPL Licensing, L.L.C.'s ("Plaintiffs") and Defendants Barclays Bank PLC and Barclays Bank Delaware (collectively, "Barclays") file this Agreed Motion to Strike References to Plaintiffs' Confidential Settlement Analysis. The parties jointly request that the Court (1) strike any references to Plaintiffs' confidential settlement analysis contained in Plaintiffs' Sur-reply to Barclays' Motion to Dismiss the Complaint ("Sur-reply") (Docket No. 139); and (2) not consider Plaintiffs' confidential settlement analysis or any references thereto in ruling on Barclays' Motion to Dismiss the Complaint ("Motion to Dismiss"), including in the decision whether to grant leave to amend.

On December 15, 2009, Plaintiffs filed their Sur-reply, which makes several references to a confidential settlement analysis provided to Barclays after Barclays filed its Motion to Dismiss on October 21, 2009. The confidential settlement analysis is described in the Sur-reply as including a "62-slide presentation," "three binders including . . . , " and a "presentation detailing Plaintiffs' infringement theories" PLS.' SUR-REPLY, at 5, 6, 8. The parties have agreed, however, that the Court should not consider the confidential settlement analysis, including the

fact that Plaintiffs created it or provided it to Barclays, in making its decisions whether (1) to grant Barclays' Motion to Dismiss; and (2) to grant Phoenix leave to amend, should it grant Barclays' Motion to Dismiss. In particular, the parties agree that a plaintiff cannot satisfy Rule 8's pleading requirements by providing a defendant with a confidential settlement analysis. As a result, the parties jointly request that the Court strike any reference to the confidential settlement analysis contained in Plaintiffs' Sur-Reply (pages 5, 6, 8), and not consider the confidential settlement analysis or any references thereto in ruling on Barclays' Motion to Dismiss, including in the decision whether to grant leave to amend.

Dated: February 11, 2010

Respectfully submitted,

/s/ Sean A. Luner

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on February 11, 2010 to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system per Local Rule CV-5(a)(3).

/s/ Neil J. McNabney